

Todd M. Friedman (216752)
Meghan E. George (274525)
Law Offices of Todd M. Friedman, P.C.
21550 Oxnard Street, Suite 780
Woodland Hills, CA 91367
Phone: 323-306-4234
Fax: 866-633-0228
tfriedman@attorneysforconsumers.com
abacon@attorneysforconsumers.com
Attorneys for Plaintiff

Attorneys for Plaintiff, TRACY THOMPSON and all others similarly situated

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TRACY THOMPSON, individually,
and on behalf of other members of
the general public similarly situated,

Plaintiff,

vs.

MAYVENN, INC.,

Defendant.

Case No.

CLASS ACTION COMPLAINT

- (1) Violation of Texas Deceptive Trade Practices Act (Tex. Bus. & Com. Code §§ 17.46, *et seq.*)
- (2) Common Law Fraud
- (3) Unjust Enrichment

Jury Trial Demanded

1 Plaintiff TRACY THOMPSON (“Plaintiff”), individually and on behalf of all
2 other members of the public similarly situated, allege as follows:

3
4 **PRELIMINARY STATEMENTS**

5 1. This is an action for damages, injunctive relief, and any other available
6 legal or equitable remedies, for violations of the Texas Deceptive Trade Practices
7 Act (Tex. Bus. & Com. Code § 17.46, *et seq.*), common law fraud, and unjust
8 enrichment, resulting from the illegal actions of Defendant, in intentionally
9 advertising its hair extension and wig products with false and misleading claims that
10 the products can be colored and bleached, when in actual fact the products become
11 damaged when dyed or bleached. Plaintiff alleges as follows upon personal
12 knowledge as to herself and her own acts and experiences, and, as to all other
13 matters, upon information and belief, including investigation conducted by her
14 attorneys.
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19 **JURISDICTION AND VENUE**

20 2. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(d), because the
21 matter in controversy exceeds the sum or value of \$5,000,000 exclusive of interest
22 or costs and is a class action in which the members of the class are citizens of a State
23 different from the Defendant.
24

25 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because
26 Defendant’s principal place of business is in the Northern District of California.
27
28

PARTIES

4. Plaintiff is an individual who was at all relevant times residing in Mesquite, Texas.

5. On information and belief, Defendant is a Delaware corporation whose principal place of business is located in Oakland, California.

6. At all times relevant hereto, Defendant was engaged in the manufacturing, marketing, and sale of hair extension and wig products.

FACTS COMMON TO ALL COUNTS

7. Defendant manufactures, advertises, markets, sells, and distributes hair extension and wig products throughout California and the United States under brand name “Mayvenn Hair.”

8. During the Class Period the following list of products (the “Products”) were advertised misleading claims that the products could be colored and bleached when in fact the products are damaged when colored or bleached:

- a. Virgin Brazilian Loose Wave Lace Front Wig;
- b. Virgin Malaysian Body Wave Lace Front Wig;
- c. Virgin Brazilian Deep Wave Lace Front Wig;
- d. Virgin Brazilian Straight Lace Front Wig;
- e. Virgin Brazilian Loose Wave 360 Wig;
- f. Virgin Brazilian Deep Wave 360 Wig;

- g. Virgin Brazilian Straight 360 Wig;
- h. Virgin Malaysian Body Wave 360 Wig;
- i. Edgy Edna Straight Top Lace Short Bob with Bangs Wig;
- j. Jazzy Jasmine Loose Wave Side Part Lace Bob Wig;
- k. Timeless Toni Straight Center Part Lace Short Bob Wig;
- l. Stylish Stony Straight Side Part Lace Short Bob Wig;
- m. King Keri Straight Side Part Lace Asymmetrical Bob Wig;
- n. Lavish Lola Body Wave Side Part Lace Wig;
- o. Trendy Tammi Deep Wave Center Part Lace Wig;
- p. Playful Peyton Straight Center Part Lace Lob Wig;
- q. Notorious Naomi Straight Top Lace with Bangs Wig;
- r. Virgin Brazilian Straight Bundle;
- s. Virgin Indian Straight Bundle;
- t. Virgin Peruvian Straight Bundle;
- u. Virgin Brazilian Yaki Straight Bundle;
- v. Virgin Peruvian Yaki Straight Bundle;
- w. Virgin Brazilian Kinky Straight Bundle;
- x. Virgin Peruvian Kinky Straight Bundle
- y. Virgin Malaysian Body Wave Bundle;
- z. Virgin Peruvian Body Wave Bundle;

- aa. Virgin Brazilian Loose Wave Bundle;
- bb. Virgin Peruvian Loose Wave Bundle;
- cc. Virgin Indian Loose Wave Bundle;
- dd. Virgin Brazilian Water Wave Bundle;
- ee. Virgin Peruvian Water Wave Bundle;
- ff. Virgin Brazilian Deep Wave Bundle;
- gg. Virgin Peruvian Deep Wave Bundle;
- hh. Virgin Brazilian Curly Bundle;
- ii. Virgin Peruvian Curly Bundle;
- jj. Virgin Brazilian Straight Lace Closure;
- kk. Virgin Peruvian Straight Lace Closure;
- ll. Virgin Indian Straight Lace Closure;
- mm. Virgin Brazilian Straight Silk Closure;
- nn. Virgin Peruvian Straight Silk Closure;
- oo. Virgin Peruvian Yaki Straight Lace Closure;
- pp. Virgin Brazilian Yaki Straight Lace Closure;
- qq. Virgin Peruvian Kinky Straight Lace Closure;
- rr. Virgin Brazilian Kinky Straight Lace Closure;
- ss. Virgin Peruvian Kinky Straight Silk Closure;
- tt. Virgin Brazilian Kinky Straight Silk Closure;

1 uu. Virgin Malaysian Body Wave Lace Closure;

2 vv. Virgin Peruvian Body Wave Lace Closure;

3 ww. Virgin Malaysian Body Wave Silk Closure;

4 xx. Virgin Peruvian Body Wave Silk Closure;

5 yy. Virgin Peruvian Loose Wave Silk Closure;

6 zz. Virgin Brazilian Loose Wave Lace Closure;

7 aaa. Virgin Indian Loose Wave Lace Closure;

8 bbb. Virgin Brazilian Loose Wave Silk Closure;

9 ccc. Virgin Peruvian Loose Wave Silk Closure;

10 ddd. Virgin Peruvian Water Wave Lace Closure;

11 eee. Virgin Brazilian Water Wave Lace Closure;

12 fff. Virgin Peruvian Deep Wave Lace Closure;

13 ggg. Virgin Brazilian Deep Wave Lace Closure;

14 hhh. Virgin Brazilian Deep Wave Silk Closure;

15 iii. Virgin Peruvian Deep Wave Silk Closure;

16 jjj. Virgin Peruvian Curly Lace Closure;

17 kkk. Virgin Brazilian Curly Lace Closure;

18 ll. Virgin Peruvian Curly Silk Closure;

19 mmm. Virgin Brazilian Curly Silk Closure;

20 nnn. Virgin Peruvian Loose Wave Lace 360 Frontal;

ooo. Virgin Brazilian Straight Lace 360 Frontal;
ppp. Virgin Malaysian Body Wave Lace 360 Frontal;
qqq. Virgin Peruvian Body Wave Lace 360 Frontal;
rrr. Virgin Brazilian loose wave Lace 360 Frontal;
sss. Virgin Peruvian Straight Lace 360 Frontal;
ttt. Virgin Indian Straight Lace Frontal;
uuu. Virgin Brazilian Yaki Straight Lace Frontal;
vvv. Virgin Peruvian Loose Wave Lace Frontal;
www. Virgin Brazilian Straight Lace Frontal;
xxx. Virgin Peruvian Water Wave Lace Frontal;
yyy. Virgin Peruvian Body Wave Lace Frontal;
zzz. Virgin Peruvian Straight Lace Frontal;
aaaa. Virgin Brazilian Curly Lace Frontal;
bbbb. Virgin Brazilian Water Wave Lace Frontal;
cccc. Virgin Malaysian Body Wave Lace Frontal;
dddd. Virgin Peruvian Deep Wave Lace Frontal;
eeee. Virgin Peruvian Curly Lace Frontal;
ffff. Virgin Peruvian Yaki Straight Lace Frontal;
gggg. Virgin Brazilian Loose Wave Lace Frontal;
hhhh. Virgin Brazilian Deep Wave Lace Frontal;

1 iii. Virgin Indian Loose Wave Lace Frontal;

2 jjjj. Virgin Peruvian Kinky Straight Lace Frontal;

3 kkkk. Virgin Brazilian Kinky Straight Lace Frontal;

4 llll. 160g Straight Seamless Clip-Ins;

5 mmmm. 160g Yaki Straight Seamless Clip-Ins;

6 nnnn. 220 Straight Seamless Clip-Ins;

7 oooo. 220g Yaki Straight Seamless Clip-Ins;

8 pppp. 50g Straight Tape-Ins;

9 9. During the Class Period Plaintiff purchased Defendant's products.

10 10. Plaintiff's most recent purchase was during or about September 2019.

11 11. All of the products were sold as being capable of being colored or
12 bleached, when in fact the products become damaged and unusable when colored or
13 bleached.

14 12. Defendant's website also includes the following chart to describe the
15 characteristics of its Products:
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What is the difference between Virgin and Human hair extensions? We know – it can get pretty confusing. Between remy and non-remy, cuticle alignment, and wondering just how many heads of hair went into one bundle, there can be quite a lot to figure out. In order to make the world of hair extensions a little less daunting, we created this quick and easy guide for you to understand exactly what you're purchasing.

	Comparing Our Hair	
	Virgin	Dyed Virgin
Is it unprocessed?		
Can it be colored?		
Can it be bleached?		
Can it be worn for multiple installs?		
30-day guarantee?		

13. However, as Plaintiff discovered first hand, Defendant's products do not have the above listed characteristics that Defendant advertises its products to have.

14. The following picture was taken by Plaintiff before she attempted to dye the products she purchased:



15. The following pictures were taken by Plaintiff after she attempted to dye the products she purchased:



1 16. Persons, like Plaintiff herein, have an interest in purchasing products
2 that do not contain false and misleading claims.

3 17. By making false and misleading claims about their products Defendant
4 impaired Plaintiff's ability to choose the type and quality of products she chose to
5 buy.
6

7 18. Therefore, Plaintiff has been deprived of her legally-protected interest
8 to obtain true and accurate information about her consumer products as required by
9 Texas and Federal law.
10

11 19. As a result, Plaintiff has been misled into purchasing products she
12 would not have otherwise purchased.
13

14 20. Plaintiff purchased Defendant's products because Defendant's
15 packaging claims that their products have the above listed characteristics.
16

17 21. Plaintiff would not have been able to understand that the Products could
18 not be used as advertised prior to purchasing the Products and discovering that they
19 could not be used as advertised.
20

21 22. Furthermore, due to Defendant's intentional, deceitful practice of
22 falsely labeling the Products as capable of being colored and bleached, Plaintiff
23 could not have known that the Products are damaged and unusable when colored or
24 bleached.
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1 23. Plaintiff was unaware that the Products do not have the above listed
2 features when she purchased them.

3 24. Plaintiff and the Class were deceived into paying money for products
4 they did not want because the Products were advertised as being capable of being
5 colored and bleached.
6

7 25. Plaintiff, the Class, and Sub-Class members, are not, and should not be,
8 required to test the features of their consumer products.
9

10 26. Defendant, and not Plaintiff, the Class, or Sub-Class, knew or should
11 have known that the Products' express advertising stating the products could be
12 colored and bleached was false, deceptive, and misleading, and that Plaintiff, the
13 Class, and Sub-Class members would not be able to tell the Products do not have
14 those features unless Defendant expressly told them, as required by law.
15
16

17 27. On information and belief, Defendants through their employees did
18 know that their Products do not have the above listed features.

19 28. As a result of Defendants' acts and omissions outlined above, Plaintiff
20 has suffered concrete and particularized injuries and harm, which include, but are
21 not limited to, the following:
22

23 a. Lost money;
24

25 b. Wasting Plaintiff's time; and
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1 c. Stress, aggravation, frustration, loss of trust, loss of serenity, and
2 loss of confidence in product labeling.

3 **CLASS ALLEGATIONS**
4

5 29. Plaintiff brings this action on behalf of herself and all others similarly
6 situated, as a member of the proposed class (the “Class”), defined as follows:

7 All persons within the United States who purchased the
8 Products within four years prior to the filing of this
9 complaint through to the date of class certification.

10 30. Plaintiff also brings this action on behalf of herself and all others
11 similarly situated, as a member of the proposed sub-class (the “Sub-Class”), defined
12 as follows:
13

14 All persons within Texas who purchased the Products
15 within four years prior to the filing of this complaint
16 through to the date of class certification.

17 31. Defendants, their employees and agents are excluded from the Class
18 and Sub-Class. Plaintiff does not know the number of members in the Class and Sub-
19 Class, but believes the members number in the thousands, if not more. Thus, this
20 matter should be certified as a Class Action to assist in the expeditious litigation of
21 the matter.
22

23 32. The Class and Sub-Class are so numerous that the individual joinder of
24 all of their members is impractical. While the exact number and identities of their
25 members are unknown to Plaintiff at this time and can only be ascertained through
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1 appropriate discovery, Plaintiff is informed and believes and thereon alleges that the
2 Class and Sub-Class include thousands, if not millions of members. Plaintiff alleges
3 that the class members may be ascertained by the records maintained by Defendant.
4

5 33. This suit is properly maintainable as a class action pursuant to Fed. R.
6 Civ. P. 23(a) because the Class and Sub-Class are so numerous that joinder of their
7 members is impractical and the disposition of their claims in the Class Action will
8 provide substantial benefits both to the parties and the Court.
9

10 34. There are questions of law and fact common to the Class affecting the
11 parties to be represented. The questions of law and fact common to the Class
12 predominate over questions which may affect individual class members and include,
13 but are not necessarily limited to, the following:
14

- 15 a. Whether the Defendant intentionally, negligently, or recklessly
16 disseminated false and misleading information by advertising
17 that the products could be colored and bleached;
18
- 19 b. Whether the Class and Sub-Class members were informed of the
20 lack of the advertised features in the Products;
21
- 22 c. Whether the Products have the features Defendant advertised
23 them to have;
24
- 25 d. Whether Defendant's conduct was unfair and deceptive;
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- 1 e. Whether Defendant unjustly enriched itself as a result of the
2 unlawful conduct alleged above;
- 3 f. Whether there should be a tolling of the statute of limitations;
4 and
5 and
- 6 g. Whether the Class and Sub-Class are entitled to restitution, actual
7 damages, punitive damages, and attorney fees and costs.
8

9 35. As a resident of the United States and the State of Texas who purchased
10 the Products, Plaintiff is asserting claims that are typical of the Class and Sub-Class.

11 36. Plaintiff has no interests adverse or antagonistic to the interests of the
12 other members of the Class and Sub-Class.
13

14 37. Plaintiff will fairly and adequately protect the interests of the members
15 of the Class and Sub-Class. Plaintiff has retained attorneys experienced in the
16 prosecution of class actions.
17

18 38. A class action is superior to other available methods of fair and efficient
19 adjudication of this controversy, since individual litigation of the claims of all Class
20 and Sub-Class members is impracticable. Even if every Class and Sub-Class member
21 could afford individual litigation, the court system could not. It would be unduly
22 burdensome to the courts in which individual litigation of numerous issues would
23 proceed. Individualized litigation would also present the potential for varying,
24 inconsistent or contradictory judgments and would magnify the delay and expense
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1 to all parties, and to the court system, resulting from multiple trials of the same
2 complex factual issues. By contrast, the conduct of this action as a class action
3 presents fewer management difficulties, conserves the resources of the parties and
4 of the court system and protects the rights of each class member. Class treatment
5 will also permit the adjudication of relatively small claims by many class members
6 who could not otherwise afford to seek legal redress for the wrongs complained of
7 herein.
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10 39. The prosecution of separate actions by individual members of the Class
11 and Sub-Class would create a risk of adjudications with respect to them that would,
12 as a practical matter, be dispositive of the interests of the other class members not
13 parties to such adjudications or that would substantially impair or impede the ability
14 of such non-party class members to protect their interests.
15
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17 40. Plaintiff's claims and injuries are identical to the claims and injuries of
18 all class and sub-class members, because all claims and injuries of all class and sub-
19 class members are based on the same false advertising and same legal theory.
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21 41. Defendants have acted or refused to act in respect generally applicable
22 to the Class and Sub-Class thereby making appropriate final and injunctive relief
23 with regard to the members of the Class and Sub-Class as a whole.
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1 42. The size and definition of the Class and Sub-Class can be identified
2 through records held by retailers carrying and reselling the Products, and by
3 Defendant's own records.

4
5 **FIRST CAUSE OF ACTION**
6 **Violations of the Texas Deceptive Trade Practices Act**
7 **Tex. Bus. & Com. Code § 17.46, *et seq.***

8 43. Plaintiff incorporates all of the allegations and statements made in
9 paragraphs 1 through 42 above as if fully reiterated herein.

10 44. Plaintiff is a "person" as defined in Tex. Bus. & Com. Code § 17.45(3),
11 as she is a natural person.

12 45. Defendant is a "person" as defined in Tex. Bus. & Com. Code §
13 17.45(3), as it is a corporation, and business entity and/or association.

14 46. Tex. Bus. & Com. Code § 17.46(a) states:

15 False, misleading, or deceptive acts or practices in the
16 conduct of any trade or commerce are hereby declared
17 unlawful and are subject to action by the consumer
18 protection division under Sections 17.47, 17.58, 17.60,
19 and 17.61 of this code.

20 47. Tex. Bus. & Com. Code § 17.46(b) states, except as provided in
21 Subsection (d) of this section, the term "false, misleading, or deceptive acts or
22 practices" includes, but is not limited to, the following acts:
23

24 (7) representing that goods or services are of a particular
25 standard, quality, or grade, or that goods are of a particular
26 style or model, if they are of another;
27

1 ...

2 (9) advertising goods or services with intent not to sell
3 them as advertised.

4 48. Tex. Bus. & Com. Code § 17.50(a) states, a consumer may maintain an
5 action where any of the following constitute a producing cause of economic damages
6 or damages for mental anguish:

7 (1) the use or employment by any person of a false,
8 misleading, or deceptive act or practice that is:

9 (A) specifically enumerated in a subdivision of subsection (b)
10 of Section 17.46 of this subchapter; and

11 (B) relied on by a consumer to the consumer's detriment...

12 49. Through its representation that the Products can be colored or bleached,
13 Defendants engaged in false, misleading, and deceptive acts, and the deceptive acts
14 constituted a producing cause of the damages suffered by Plaintiff and the Class and
15 Sub-Class Members, as they relied on Defendants' acts to their detriment.

16 50. Tex. Bus. & Com. Code § 17.50(b) states, in a suit filed under this
17 section, each consumer who prevails may obtain:
18

19 (1) the amount of economic damages found by the trier of fact.
20 If the trier of fact finds that the conduct of the defendant
21 was committed knowingly, the consumer may also recover
22 damages for mental anguish, as found by the trier of fact,
23 and the trier of fact may award not more than three times
24 the amount of economic damages; or if the trier of fact
25 finds the conduct was committed intentionally, the
26 consumer may recover damages for mental anguish, as
27 found by the trier of fact, and the trier of fact may award
28

1 not more than three times the amount of damages for
2 mental anguish and economic damages;

3 (2) an order enjoining such acts or failure to act;

4 (3) orders necessary to restore to any party to the suit any
5 money or property, real or personal, which may have been
6 acquired in violation of this subchapter; and

7 (4) any other relief which the court deems proper, including
8 the appointment of a receiver or the revocation of a license
9 or certificate authorizing a person to engage in business in
10 this state if the judgment has not been satisfied within
11 three months of the date of the final judgment. The court
12 may not revoke or suspend a license to do business in this
13 state or appoint a receiver to take over the affairs of a
14 person who has failed to satisfy a judgment if the person
15 is a licensee of or regulated by a state agency which has
statutory authority to revoke or suspend a license or to
appoint a receiver or trustee. Costs and fees of such
receivership or other relief shall be assessed against the
defendant.

16 51. In taking the actions and omissions set forth above, and engaging in
17 false, misleading, and deceptive acts set forth above, Defendants violated the Texas
18 Deceptive Trade Practices Act, including, but not limited to Tex. Bus. & Com. Code
19 § 17.46.
20

21 52. By reason thereof, Plaintiff, the Class, and Sub-Class Members are
22 entitled to a judgment against Defendants, declaring that Defendants' conduct
23 violated Tex. Bus. & Com. Code § 17.46, enjoining Defendants from engaging in
24 similar conduct in the future, and awarding actual damages, mental anguish
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1 damages, costs, and treble damages.

2 **SECOND CAUSE OF ACTION**
3 **COMMON LAW FRAUD**

4 53. Plaintiff incorporates all of the allegations and statements made in
5 paragraphs 1 through 52 above as if fully reiterated herein.

6 54. Through its false advertisements that the Products can be colored and
7 bleached, Defendant made false statements of material fact.

8 55. At the time Defendant made its statements that the Products can be
9 colored and bleached to Plaintiff, it knew, or reasonably should have known, that
10 the statements described above were false.

11 56. At the time Defendant made the statements to Plaintiff, it intended to
12 induce Plaintiff to purchase the Products.

13 57. Plaintiff relied upon the truth of the statements described above and
14 purchased the Products, only to find that the Products are damaged and unusable
15 when colored or bleached.

16 58. As a result of their reasonable reliance upon Defendant's false
17 statements of material fact as set forth above, Plaintiff and other members of the
18 Class and Sub-Class have suffered concrete and particularized injuries, harm and
19 damages which include, but are not limited to, the loss of money spent on products
20 they did not want to buy, and stress, aggravation, frustration, inconvenience,
21 emotional distress, mental anguish, and similar categories of damages.

22 **FOURTH CAUSE OF ACTION**
23 **UNJUST ENRICHMENT**

24 59. Plaintiff incorporates all of the allegations and statements made in
25 paragraphs 1 through 58 above as if fully reiterated herein.

26 60. Plaintiff conferred monetary benefits to Defendant by purchasing the
27 Products.
28

advertising regarding the conduct discussed above;

- (d) Actual damages suffered by Plaintiff and Class Members as applicable or full restitution of all funds acquired from Plaintiff and Class Members from the sale of falsely advertised Class Products during the relevant class period;
- (e) Punitive damages, as allowable, in an amount determined by the Court or jury;
- (f) Any and all statutory enhanced damages;
- (g) All reasonable and necessary attorneys' fees and costs provided by statute, common law or the Court's inherent power;
- (h) Pre- and post-judgment interest; and
- (i) All other relief, general or special, legal and equitable, to which Plaintiff and Class Members may be justly entitled as deemed by the Court.

Dated: August 5, 2020

Respectfully submitted,

LAW OFFICES OF TODD M. FRIEDMAN , PC

By: /s/ Todd. M. Friedman

TODD M. FRIEDMAN, ESQ.

Attorney for Plaintiff Tracy Thompson